

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEXTER E. DALE,)	No. C 05-1842 JSW (PR)
Plaintiff,)	ORDER REGARDING PENDING
v.)	MOTIONS
L. FERNANDEZ AND L. LOUGH,)	(Docket no. 23)
Defendants.)	
_____)	

Plaintiff, a prisoner of the State of California, currently incarcerated at the Correctional Training Facility in Soledad, California, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983, complaining of deliberate indifference to his serious medical needs. On February 27, 2007, the Court denied summary judgment as to Defendant Fernandez and ordered the Clerk to request a forwarding address for Defendant Nurse L. Lough from the Legal Affairs Department of the California Department of Corrections and Rehabilitation (“CDCR”) so that the Court could order a further attempt at service by the United States Marshal (“USM”) (docket no. 19). On May 3, 2007, after CDCR was unable to provide a current address for Lough, the Court ordered Plaintiff to provide the Court with sufficient information regarding unserved Defendant Lough to allow for service within sixty days of the Court’s order. On July 3, 2007, Plaintiff moved for an extension of time and for an order compelling the California Department of Corrections and Rehabilitation to provide certain information regarding Defendant Lough (docket no. 23).

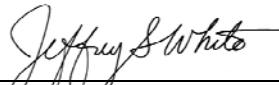
Plaintiff’s motion seeking an extension of time in which to provide the required identifying information to the Court is GRANTED. Plaintiff is provided with an additional sixty days in which to provide this information to the Court. Failure to do so within that time

1 will result in the dismissal of the remaining unserved Defendant without prejudice. *Walker v.*
2 *Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994).

3 However, Plaintiff's motion to compel discovery is DENIED without prejudice for
4 failure to comply with the meet-and-confer requirement of Federal Rule of Civil Procedure 37(
5 a) and Local Rule 37-1. *See* Fed. R. Civ. P. 37(a) (motion to compel must include a
6 certification that the movant has in good faith conferred or attempted to confer with the party
7 not making the disclosure in an effort to secure the disclosure without court action); N D Cal
8 Local Rule 37-1 (same). Before attempting to compel discovery, Plaintiff must first seek the
9 information through discovery under Federal Rule of Civil Procedure 26. This order
10 TERMINATES Plaintiff's motion (docket no. 23).

11 IT IS SO ORDERED.

12 DATED: July 10, 2007

13 
14 _____
JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DALE,

Plaintiff,

v.

FERNANDEZ et al,

Defendant.

Case Number: CV05-01842 JSW

CERTIFICATE OF SERVICE

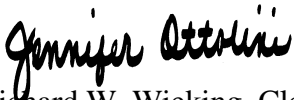
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 10, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Dexter E. Dale
D-14750
P.O. Box 689
Soledad, CA 93960-0689

Kay K. Yu
State Attorney General's Office
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102-3664

Dated: July 10, 2007


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk